

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

INDACON, LLC,)	
)	
Plaintiff,)	
)	Civil Action No. 5:10-cv-966-OLG
v.)	
)	JURY TRIAL DEMANDED
FACEBOOK, INC.,)	
)	
Defendant.)	
_____)	

ANSWER

Defendant Facebook, Inc. ("Facebook") answers the Third Amended Complaint of Indacon, Inc. ("Indacon") as follows:

THE PARTIES

1. Facebook lacks sufficient information to form a belief as to the truth of the allegations recited in paragraph 1, and on that basis denies all allegations of paragraph 1.
2. Facebook admits the allegations in paragraph 2.

JURISDICTION

3. Facebook admits that this Court has subject matter jurisdiction over this action, which purports to arise under the patent laws of the United States. Facebook admits that it is subject to personal jurisdiction within this district for purposes of this lawsuit. Facebook denies that it has committed acts of infringement within Texas and this judicial district.

VENUE

4. Facebook admits that venue in this Judicial District complies with the requirements of 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). Facebook denies that venue is

convenient or otherwise appropriate in this venue. Facebook denies that it has committed acts of infringement in this judicial district.

COUNT I – ALLEGED INFRINGEMENT OF U.S. PATENT NO. 6,834,276

5. Facebook admits that U.S. Patent No. 6,834,276 (“the ’276 patent”) is titled “Database System and Method for Data Acquisition and Perusal,” that it appears on its face to have issued on December 21, 2004, and that Exhibit A to Indacon’s Third Amended Complaint appears to be a copy of the ’276 patent. Facebook lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 5, and on that basis denies the remaining allegations of paragraph 5.

6. Facebook denies all allegations of paragraph 6.

7. Facebook admits that Indacon’s original complaint was served and included a copy of the ’276 patent. As to Indacon’s allegation that Indacon might in the future seek to amend its Complaint, Facebook lacks sufficient information to form a belief as to the truth of any future allegation not yet made and on that basis denies it. Facebook has not consented to any further amendments to the Complaint. Facebook denies all other allegations of paragraph 7.

8. Facebook denies all allegations of paragraph 8.

9. Facebook denies all allegations of paragraph 9.

COUNT II – ALLEGED INFRINGEMENT OF U.S. PATENT NO. 7,836,043

10. Facebook admits that U.S. Patent No. 7,836,043 (“the ’043 patent”) is titled “Database System and Method for Data Acquisition and Perusal,” that it appears on its face to have issued on November 16, 2010, and that Exhibit B to Indacon’s Third Amended Complaint appears to be a copy of the ’043 patent. Facebook lacks sufficient information to form a belief as to the truth of the remaining allegations recited in paragraph 10, and on that basis denies the remaining allegations of paragraph 10.

11. Facebook denies all allegations of paragraph 11.

12. Facebook admits that Indacon's original complaint was served and included a copy of the '043 patent. As to Indacon's allegation that Indacon might in the future seek to amend its Complaint, Facebook lacks sufficient information to form a belief as to the truth of any future allegation not yet made and on that basis denies it. Facebook has not consented to any further amendments to the Complaint. Facebook denies all other allegations of paragraph 12.

13. Facebook denies all allegations of paragraph 13.

14. Facebook denies all allegations of paragraph 14.

AFFIRMATIVE DEFENSES

As further answer and as affirmative defenses, Facebook alleges the following:

FIRST AFFIRMATIVE DEFENSE – NON-INFRINGEMENT

1. Facebook does not infringe and has not infringed, directly or indirectly, any valid claim of the '276 patent or the '043 patent.

SECOND AFFIRMATIVE DEFENSE – INVALIDITY

2. Facebook is informed and believes, and based thereon alleges, that one or more of the claims of the '276 patent and the '043 patent are invalid for failure to satisfy the conditions of patentability set forth in 35 U.S.C. § 101 *et seq.*

THIRD AFFIRMATIVE DEFENSE – PROSECUTION HISTORY ESTOPPEL

3. Facebook is informed and believes, and based thereon alleges, that Indacon is barred or limited from recovery in whole or in part by the doctrine of prosecution history estoppel.

FOURTH AFFIRMATIVE DEFENSE – LIMITATION ON DAMAGES

4. Facebook is informed and believes, and based thereon alleges, that Indacon is barred or limited from recovery under 35 U.S.C. § 287.

FIFTH AFFIRMATIVE DEFENSE – LACHES, ESTOPPEL, WAIVER, ACQUIESCENCE

5. Facebook is informed and believes, and based thereon alleges, that Indacon's claims are barred in whole or in part by the doctrines of laches, estoppel, waiver, and/or acquiescence.

OTHER AFFIRMATIVE DEFENSES

6. Facebook reserves the right to assert additional affirmative defenses during or upon the completion of discovery.

March 1, 2011

Respectfully submitted,

By: /s/ Ricardo G. Cedillo

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(Pro Hac Vice applications will be filed)

CERTIFICATE OF SERVICE

I certify that on the 1st day of March, 2011, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system which will send electronic notification to all counsel or record.

/s/ Troy A. Glander

Troy A. Glander